

REMARKS

This amendment is in response to the Office Action mailed on September 22, 2004 in which claims 1-22 were rejected. With this amendment, claims 1, 8, and 18 are amended and claim 7 is canceled. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Objection to the Drawings

In section 1 of the Office Action, the Examiner objected to the drawings under 37 C.F.R. 1.83(a) for not showing every feature specified in the claims. Namely, the Examiner indicated that the “pair of scissors” recited in claims 5 and 13 is not shown in the drawings. Applicants respectfully assert that the element 14 in FIG. 2 placed closest to the handle side 12 having locking pin 24 is a pair of scissors. The scissors are shown in a folded configuration. Accordingly, Applicants respectfully request that the objection to the drawings be removed.

II. Rejection of Claims 5 and 13 under 35 U.S.C. §112, Second Paragraph

In section 3 of the Office Action, the Examiner rejected claims 5 and 13 under 35 U.S.C. §112, asserting that the term “pair of scissors” is unclear. Applicants respectfully assert that the element 14 in FIG. 2 placed closest to locking pin 24 is a pair of scissors. While the structure disclosed is not meant to limit the term “pair of scissors,” the structure shown in FIG. 2 supports the language of claims 5 and 13. Accordingly, claims 5 and 13 are not indefinite, and Applicants respectfully present claims 5 and 13 for reconsideration and allowance.

III. Rejection of Claims 1, 4, 5, 18, 21, and 22 Under 35 U.S.C. §102(b) as Anticipated by McIntosh

In section 6 of the Office Action, the Examiner rejected claims 1, 4, 5, 18, 21, and 22 under 35 U.S.C. §102(b) as anticipated by McIntosh, U.S. Patent No. 5,313,376. With this reply, Applicants have amended independent claims 1 and 18 to overcome the rejection based on McIntosh. The amendments to claims 1 and 18 are supported in the specification at

paragraphs [0018], and [0027]. Claim 1, as amended, recites “a flashlight pivotally coupled to the handle at a position proximate to the second end of the handle, the flashlight having a first light source directed in a first direction such that the first light source lights the ancillary tool when the flashlight is in an open position and a second light source directed in a second direction.” McIntosh does not suggest or disclose a flashlight pivotally coupled to the handle at a point distal to the ancillary tool. In contrast, McIntosh discloses a flashlight that is detachable, but when coupled to the tool, is fixed relative to the handle. Accordingly, independent claim 1, and corresponding dependent claims 4 and 5 are not anticipated by McIntosh and are presented for reconsideration and allowance.

Claim 18, as amended, recites “a lighting unit pivotally coupled to the handle,” and “a means for activating the flashlight, wherein when the means for activating the flashlight is engaged, the means for biasing the flashlight moves the flashlight from the closed position to the open position and the flashlight is turned on.” McIntosh does not suggest or disclose a flashlight pivotally coupled to the handle with such a means for activating the flashlight. McIntosh discloses a flashlight having a lens cap housing that is rotated to activate the light source. Accordingly, independent claim 18, and corresponding dependent claims 21 and 22 are not anticipated by McIntosh and are presented for reconsideration and allowance.

IV. Rejection of Claims 2, 3, 19, and 20 Under 35 U.S.C. §103(a) as Based Upon McIntosh in View of Landamia

In section 8 of the Office Action, the Examiner rejected claims 2, 3, 19, and 20 under 35 U.S.C. §103(a) as unpatentable over McIntosh, U.S. Patent No. 5,313,376, in view of Landamia, U.S. Patent No. 6,099,141. As discussed above, Applicants have amended independent claims 1 and 18 to overcome the rejection based on McIntosh. Claim 1, as amended, recites “a flashlight pivotally coupled to the handle at a position proximate to the second end of the handle, the flashlight having a first light source directed in a first direction such that the first light source lights the ancillary tool when the flashlight is in an open position and a second light source directed in a second direction.” Neither McIntosh nor Landamia suggests or discloses a flashlight pivotally coupled to the handle at a point distal to the ancillary tool. Landamia does not overcome the deficiencies of McIntosh because like

McIntosh, it does not appear to disclose a pivotally coupled light source. Accordingly, dependent claims 2 and 3 are patentable over McIntosh in view of Landamia and are presented for reconsideration and allowance.

Claim 18, as amended, recites “a lighting unit pivotally coupled to the handle,” and “a means for activating the flashlight, wherein when the means for activating the flashlight is engaged, the means for biasing the flashlight moves the flashlight from the closed position to the open position and the flashlight is turned on.” Neither McIntosh nor Landamia suggests or discloses a flashlight pivotally coupled to the handle with such a means for activating the flashlight. Accordingly, dependent claims 19 and 20 are patentable over McIntosh in view of Landamia and are presented for reconsideration and allowance.

V. Rejection of Claims 6 and 7 Under 35 U.S.C. §103(a) as Based Upon McIntosh in View of Chen

In section 9 of the Office Action, the Examiner rejected claims 6 and 7 under 35 U.S.C. §103(a) as unpatentable over McIntosh, U.S. Patent No. 5,313,376, in view of Chen, U.S. Patent No. 5,467,256.. As discussed above, Applicants have amended independent claim 1 overcome the rejection based on McIntosh. Further, Applicants have canceled claim 7. Claim 1, as amended, recites “a flashlight pivotally coupled to the handle at a position proximate to the second end of the handle, the flashlight having a first light source directed in a first direction such that the first light source lights the ancillary tool when the flashlight is in an open position and a second light source directed in a second direction.” Neither McIntosh nor Chen suggests or discloses a flashlight pivotally coupled to the handle at a point distal to the ancillary tool that lights the ancillary tool when the flashlight is in an open position. Accordingly, dependent claim 6 is patentable over McIntosh in view of Chen and is presented for reconsideration and allowance.

VI. Rejection of Claims 8 and 12-17 Under 35 U.S.C. §103(a) as Based Upon Chen in View of Jones

In section 10 of the Office Action, the Examiner rejected claims 8 and 12-17 under 35 U.S.C. §103(a) as unpatentable over Chen, U.S. Patent No. 5,467,256, in view of Jones, U.S.

Patent No. 6,162,137. Applicants have amended independent claim 8 in view of the art of record. Further, Applicants have canceled claim 7. Claim 8 recites “a means for activating the flashlight, wherein when the means for activating the flashlight is engaged, the means for biasing the flashlight moves the flashlight from the closed position to the open position and the flashlight is turned on.” Neither Chen nor Jones suggests or discloses a flashlight with such a means where the flashlight is activated in an open position. Accordingly, independent claim 8, and corresponding dependent claims 12-17 are patentable over Chen in view of Jones and are presented for reconsideration and allowance.

VII. Rejection of Claims 9-11 Under 35 U.S.C. §103(a) as Based Upon Chen in View of Jones and Further in View of Landamia

In section 10 of the Office Action, the Examiner rejected claims 8 and 12-17 under 35 U.S.C. §103(a) as unpatentable over Chen, U.S. Patent No. 5,467,256, in view of Jones, U.S. Patent No. 6,162,137, and further in view of Landamia. As stated above, Applicants have amended independent claim 8 in view of the art of record. Claim 8 recites “a means for activating the flashlight, wherein when the means for activating the flashlight is engaged, the means for biasing the flashlight moves the flashlight from the closed position to the open position and the flashlight is turned on.” Neither Chen, Jones, or Landamia suggests or discloses a flashlight with such a means where the flashlight is activated in an open position. Accordingly, dependent claims 9-11 are not unpatentable over Chen in view of Jones and further in view of Landamia, and are presented for reconsideration and allowance.

CONCLUSION

Claims 1-6 and 8-22 are pending in the present application. With this reply, claims 1, 8, and 18 are amended. Claim 7 is canceled. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 12/22/09

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 297-5897
Facsimile: (414) 297-4900

By 

Jeffrey S. Gundersen
Attorney for Applicants
Registration No. 47,619